

Application Number 09/808,849  
Responsive to Office Action mailed February 3, 2005

### **REMARKS**

This communication is responsive to the Office Action dated February 3, 2005. Applicant has not made any amendments by way of this communication. Claims 1-28 remain pending in their originally presented form.

### **Claim Rejection Under 35 U.S.C. § 103**

#### ***Claims 1-10, 12, 14-22, 25, 27 and 28***

In the Office Action, the Examiner rejected claims 1-10, 12, 14-22, 25, 27 and 28 under 35 U.S.C. § 103(a) as being unpatentable over Acosta et al. (U.S. Patent No. 6,166,729) in view of Manolis et al. (U.S. Patent No. 6,583,799). Applicant respectfully traverses the rejection. The applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

In support of the rejection, the Examiner characterized Acosta et al. as disclosing the identification of a technician responsible for adjustment of color characteristics of an image, and determining whether the technician satisfies a qualification criterion. The Examiner's characterization of Acosta et al. is incorrect. Acosta et al. makes no mention of the identification of a technician, much less a technician responsible for color adjustment of an image. Moreover, Acosta et al. provides no teaching whatsoever with respect to a determination of whether such a technician satisfies a qualification criterion.

Acosta et al. is directed to techniques for remote viewing of visual information over a network. Column 1, lines 61-65. Acosta et al. describes administrator workstations that have high resolution display capabilities for periodic evaluation of image quality of the remote viewing system. Column 6, lines 54-58. However, Acosta et al. does not describe identification of a technician responsible for adjustment of color characteristics of an image, as required by claims 1-26. In fact, the Acosta reference fails to disclose any adjustment of the color characteristics of an image by a technician, let alone identifying the particular technician who is responsible for such adjustment.

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Acosta merely teaches the periodic evaluation of the image quality of a remote viewing system by a network administrator. The Examiner appears to have misconstrued the Acosta et al. reference. For example, in a passage relied upon by the Examiner, at column 6, lines 43-46, Acosta et al. states:

The administrative workstations (not shown) are connected with the system 16 and allow system administrators and technicians to monitor network status and make adjustments.

The above passage from Acosta et al. refers to nothing more than general network maintenance and monitoring performed by network administrators and maintenance technicians. The adjustments are made to the network, not color characteristics of images. In this passage, Acosta et al. fails to describe anything remotely related to identification of a technician, especially a technician responsible for color adjustments of an image, or determining if the technician satisfies a qualification criterion as a condition to permitting an upload of the image to a web server.

The other portions of Acosta et al. relied on by the Examiner (column 28, lines 55-67 and column 29, lines 1-49) simply describe a client login process. The client login process does not involve evaluation of a qualification criterion, and does not even pertain to a technician responsible for color adjustments to uploaded images. Indeed, the client login process does not form any condition for uploading. On the contrary, the login process in the Acosta et al. system is provided for clients who want to view one or more live visual feeds, not a technician who adjusts color characteristics and uploads images to a web server.

The client login process described by Acosta et al. does not involve an evaluation of a qualification criterion, much less a qualification criterion associated with a technician responsible for color adjustment of an image to be uploaded to a web server. On the contrary, Acosta et al. merely describes a client logging into the Acosta system using a username and password. Column 29, lines 10-25. The Acosta system determines the permission level of the client based on the login information, and provides the client with access to visual information corresponding to the respective permission level. Column 29, line 32 – Column 30, line 15. Thus, the techniques described in Acosta et al. are not used to identify a technician who uploads images, but instead to log the client into the system to download and view live images.

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The Examiner acknowledged that Acosta et al. fails to disclose "adjustment of color characteristics of an image" or "permitting an image upload" if the technician satisfies a qualification criterion, as required by claims 1 and 14. In view of at least these fundamental deficiencies, it is unclear how the Acosta et al. reference is even relevant to the claimed invention. If the Acosta et al. reference does not teach adjustment of color characteristics of an image, then how could it teach identification of a technician responsible for such adjustments? Moreover, if the Acosta et al. reference does not teach permitting an upload of an image, then how could it teach the evaluation of a qualification criterion to permit such an upload?

In light of the acknowledged deficiencies in Acosta et al. reference, the Examiner cited Manolis et al. as describing "uploading images to a web server and adjusting the color of the image." The Examiner concluded that it would have been obvious to "apply Manolis to Acosta, providing Acosta the benefit of correcting an image color uploaded from the web server for clearer and more sharp image so that the image would look more like the original image uploaded to the server."

Even if such a modification were made, it still would not conform to the requirements of the claimed invention. The claimed invention requires more than simply uploading images or adjusting color. Whether Manolis describes uploaded images or not, it remains clear that neither reference describes identification of a technician responsible for color adjustment of an image. Likewise, neither reference describes permitting an upload of the image to a web server if the technician satisfies a qualification criterion. As a result, the combination of Acosta et al. and Manolis would not even point in the direction of the claimed invention, let alone satisfy its requirements.

In general, Manolis et al. describes methods for uploading image data to a remote computer. Column 3, lines 24-29. Specifically, Manolis et al. describes identifying an image to be uploaded to the remote computer, generating a thumbnail associated with the image and uploading either the image or the thumbnail or both to the remote server. Column 3, lines 24-55. The portion of Manolis et al. relied on by the Examiner (column 7, lines 16-28) describes generation of the thumbnail in further detail. The generation of the thumbnail by decompression of the original image file may include image filtering operations such as sharpening, rotating,

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resizing, or color reducing operations to enhance the appearance of the thumbnail. Column 7, lines 23-28.

As discussed above, Manolis et al. fails to describe any of the requirements of Applicant's claims. To the extent Manolis et al. describes uploading an image to a server, Manolis et al. does not disclose making the upload contingent on any particular event, much less contingent on a technician satisfying a qualification criterion. Moreover, the image filtering operations used by the Manolis system are completely irrelevant to identifying a technician responsible for adjustment of color characteristics of an image.

In addition to the shortcomings identified above, the Acosta et al. and Manolis et al. references fail to disclose or suggest the additional elements and features of dependent claims 2-10, 12, 15-22, 25, and 28. For example, as described above, neither of the references discloses or suggests a qualification criterion of a technician in general, much less a specific qualification criterion such as a minimum level of color adjustment skill, as recited in claims 2 and 15, or a minimum level of care in adjusting color characteristics of the image, as recited in claims 3 and 16. With respect to these limitations, the Examiner referred to Col 29, lines 32-40, of Acosta et al., concerning inspection of a user permissions level. This passage in Acosta et al. does not even mention color, and has absolutely nothing to do with a qualification criterion relating to a minimum level of color adjustment skill, or a minimum level of care in adjusting color characteristics. Applicants are confused by the Examiner's reliance on this portion of Acosta et al.

As another example, the applied references lack any teaching that would have suggested auditing images uploaded by the technician to assess quality of the adjustments, as required by claims 7-9, 20-22. The Examiner acknowledged that Acosta et al. does not disclose auditing images uploaded by a technician to assess the quality of the adjustments. However, the Examiner stated that "Manolis mentions uploading images to a web server and adjusting the color of the image." Even if this is true, it has nothing to do with "auditing images uploaded by the technician to assess quality of the adjustments. The Examiner's conclusion of obviousness did not even address this requirement of Applicant's claims. Instead, the Examiner stated that it would have been obvious to provide "Acosta the benefit of correcting an image color with

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uploaded from the web server for a clearer and more sharp image." Applicants are confused as to how this Examiner's analysis pertains to the "auditing" requirements of these claims.

With respect to claims 27 and 28, neither Acosta et al. nor Manolis et al. provides any teaching that would have suggested creating image files representative of respective images, including with the image files an indication of an identity of a technician responsible for adjustment of color characteristics of the images, permitting upload of the images to a web server if the technician has a qualification level that satisfies a minimum level of color adjustment skill, performing an audit of at least some of the images to assess quality of the adjustments made by the technician, and updating the qualification level of the technician based on the audit, as required by independent claim 27.

As described in detail above, neither Acosta et al., Manolis et al., nor the combination of the two references, discloses identifying an identity of a technician responsible for adjustment of color characteristics of images, much less creating image files and including in the image files an indication of an identity of the technician. As further described above, neither Acosta et al. nor Manolis et al. discloses or suggests permitting upload of the images to a web server if the technician has a qualification level that satisfies a minimum level of color adjustment skill. Moreover, neither Acosta et al. or Manolis et al. describes or suggests any sort of audit scheme to identify the level of skill of the technician. In fact, neither reference discusses the level of skill of a technician responsible for adjustment of color characteristics at all.

For at least these reasons, the Examiner has failed to establish a prima facie case for anticipation of Applicant's claims 1-10, 12, 14-22, 25, 27 and 28 under 35 U.S.C. § 103(a). Withdrawal of this rejection is requested.

#### *Claims 11 and 24*

In the Office Action, the Examiner rejected claims 11 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Acosta et al. (U.S. Patent No. 6,166,729) in view of Manolis et al. (U.S. Patent No. 6,583,799) as applied to claims 1 and 14, in view of Holub as applied to claims 10 and 23, and in further view of Holtzman et al. (U.S. Publication No. 2001/0027439). Applicant respectfully traverses the rejection. First, the rejections of claims 10 and 23 do not appear to rely on the Holub reference. There is no mention of Holub in the rejection of claims 10 and 23.

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although the Examiner makes reference to Holub in the "Response to Arguments" section of the Office Action. The basis for the rejection of claims 11 and 24 is unclear, to the extent it refers to Holub.

Second, the applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention. When added to the teachings of Acosta et al., Manolis et al., Holtzman et al. does not render claims 11 and 24 unpatentable, since Holtzman et al. provides no teaching sufficient to cure the basic deficiencies in Acosta et al. and Manolis et al., as discussed above. Therefore, this rejection should be withdrawn.

#### *Claims 13 and 26*

In the Office Action, the Examiner rejected claims 13 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Acosta et al. (U.S. Patent No. 6,166,729) in view of Manolis et al. (U.S. Patent No. 6,583,799) as applied to claims 1 and 14, in view of Holub as applied to claims 10 and 23, in view of Manolis as applied to claim 12, and in further view of Bruck et al. (U.S. Patent No. 6,008,836). Applicant respectfully traverses the rejection. First, the rejections of claims 10 and 23 do not appear to rely on the Holub reference. There is no mention of Holub in the rejection of claims 10 and 23., although the Examiner makes reference to Holub in the "Response to Arguments" section of the Office Action. The basis for the rejection of claims 13 and 26 is unclear, to the extent it refers to Holub.

Second, the applied references fail to disclose or suggest the inventions defined by Applicant's claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention. When added to the teachings of Acosta et al., Manolis et al., and Holub, Bruck et al. does not render claims 11 and 24 unpatentable, since Bruck et al. provides no teaching sufficient to cure the basic deficiencies in Acosta et al., Manolis et al., and Holub as discussed above. Therefore, this rejection should be withdrawn.

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### Response to Arguments

In the Response to Arguments section of the Office Action, the Examiner referred to the Holub reference, as mentioned above. However, Holub was not cited by the Examiner as the basis for the rejection of claims 10 and 23 in the Office Action. Therefore, the Examiner's reference to the Holub reference is confusing. Applicant requests clarification.

In addition, the Examiner referred to Applicant's arguments with respect to Manolis et al. in the previous response dated September 3, 2004. However, Applicant did not raise any arguments with respect to the Manolis et al. Indeed, Manolis et al. has been cited by the Examiner for the first time in the present Office Action. Applicant requests clarification.

### CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

5-3-05

SHUMAKER & SIEFFERT, P.A.  
8425 Seasons Parkway, Suite 105  
St. Paul, Minnesota 55125  
Telephone: 651.735.1100  
Facsimile: 651.735.1102



Name: Steven J. Shumaker  
Reg. No.: 36,275